

APPEAL NO. 042144
FILED OCTOBER 18, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on August 2, 2004. The hearing officer resolved the disputed issues by deciding that the appellant/cross-respondent's (claimant) compensable injury of _____, does not extend to and include L5 radiculopathy or tibial nerve neuropathy, and that the claimant had disability as a result of his compensable injury from March 3, 2003, through the date of the CCH. The claimant appeals the adverse determination regarding the extent of his compensable injury, contending that such determination is contrary to the overwhelming weight of the evidence. The respondent/cross-appellant (carrier) appeals the hearing officer's disability determination, contending that such determination is not supported by the credible evidence. The carrier also points out that the parties agreed to amend the disability issue to inquire whether the claimant had disability after March 6, 2003. Each party filed a response.

DECISION

Affirmed as reformed herein.

The parties stipulated that the claimant sustained a compensable injury on _____. Disability is defined in Section 401.011(16). Disability from the date of injury through March 6, 2003, was not in dispute. Disability after March 6, 2003, was in dispute. Whether the claimant's compensable injury, which occurred when he fell off of a stool at work and fractured his left hip, included L5 radiculopathy and tibial nerve neuropathy as reported on an electrodiagnostic study in May 2004, and whether the claimant had disability after March 6, 2003, were fact questions for the hearing officer to resolve from the conflicting evidence presented at the CCH. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. Although there is conflicting evidence on both disputed issues, we conclude that the hearing officer's determinations are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The parties agreed at the CCH to amend the disability issue to have a determination on whether the claimant had disability after March 6, 2003. As noted, disability through March 6, 2003, was not in dispute. The hearing officer incorrectly used the date of March 3, 2003, in listing the disability issue in his decision and in deciding the disability issue. We reform the hearing officer's decision to reflect that the claimant had disability resulting from his compensable injury of _____, from March 7, 2003, and continuing through the date of the CCH.

As reformed herein, we affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **PACIFIC EMPLOYERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBIN M. MOUNTAIN
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 300
IRVING, TEXAS 75063.**

Robert W. Potts
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Gary L. Kilgore
Appeals Judge